IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 3826 of 1996

Between:

K. Hanumantha Rao, S/o K. Nagabhushanam,
R/o. Chintalapudi, Chintalapudi (M),
West Godavari District.

..... PETITIONER

AND

The Andhra Pradesh Dairy Development
Cooperative Federation Ltd.,
Rep. by its Managing Director,
Lalapet, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondent in passing the order in the Proceedings No. 33036/449/94 dt: 6-5-94 recovering Rs.32,279-17 from the pension as illegal arbitrary and opposed to the principles of natural justice

Counsel for the Petitioner: MR.S.VENKATESWARA RAO

Counsel for the Respondent : MR.N.RAJESWAR RAO (SC FOR APDDCF LTD)

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the action of the respondent in passing the order dated 06.05.1994, in seeking recovery of a sum of Rs.32,279.17 from the pension of the petitioner as arbitrary and illegal.

Initially, the petitioner was appointed as Process Supervisor in the respondent–Federation w.e.f. 03.07.1971. Subsequently, he was promoted to the post of Grade-II Manager w.e.f. 02.05.1975 and later he was also promoted to the post of Grade-I Manager in the year 1993. While so, in response to Voluntary Retirement Scheme introduced in the respondent-Federation, the petitioner offered to retire voluntarily through his letter dated 30.10.1993. The same was accepted and the petitioner was retired from service on 31.01.1994 under the said Scheme. However, before the retirement benefits could be paid to the petitioner, it was found that while he was working as Grade-II Manager at Godavari District Milk Producers Cooperative Union Limited, he had been negligent of his duties, which resulted in loss of Rs.32,279.17 and an enquiry was contemplated. On bringing this fact to the notice of the petitioner, he submitted a letter dated 08.03.1994 asking the respondent-Federation to withhold the said amount of Rs.32,279.17 subject to the said enquiry. In view of the same, while paying all the benefits as per voluntary retirement scheme, the impugned proceedings dated 06.05.1994 was passed.

The learned counsel for the petitioner submits that once the Voluntary Retirement Scheme offered by the petitioner has been accepted and he was permitted to retire voluntarily w.e.f. 31.01.1994, the question of conducting any enquiry into the loss caused by the petitioner in the Godavari District Milk Producers Cooperative Union

Limited, has no relevance and it cannot be enquired into and no recoveries can be effected, much less, the respondent herein, cannot withhold the said amounts.

Per contra, the learned counsel for the respondent submitted that the very impugned order was passed in pursuance of the letter given by the petitioner on 08.03.1994 and now having accepted the retirement benefits, the petitioner cannot question the proceedings dated 06.05.1994. If he is really aggrieved by the enquiry contemplated by the Godavari District Milk Producers Cooperative Union Limited, it is for him to question the said enquiry contemplated by the said Union and he cannot challenge the proceedings dated 06.05.1994

Under those circumstances, I am of the view that the writ petition is misconceived since the enquiry was conducted by the Godavari District Milk Producers Cooperative Union Limited and not the respondent-federation herein, therefore, the respondent-Federation has simply passed the impugned order only to make him know that such an amount was withheld from the retirement benefits, which was the subject matter of the enquiry and as per the letter given by the petitioner himself.

If no enquiry is conducted, as on date, the petitioner cannot be blamed and the amounts so withheld by the respondent, shall be paid forthwith to the petitioner within a period of two months, from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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C.V. Ramulu, J

Date: 20.01.2005

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To

1. The Managing Director,
Andhra Pradesh Dairy Development
Cooperative Federation Ltd.,

Lalapet, Hyderabad.

2. Two CD Copies